

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Jacobson	Team: Squad #14	CCRB Case #: 201507834	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/16/2015 9:05 AM	Location of Incident: 87-15 Beach Channel Drive	Precinct: 100	18 Mo. SOL 3/16/2017	EO SOL 3/16/2017	
Date/Time CV Reported Wed, 09/16/2015 9:28 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/16/2015 9:28 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Ramiro Ruiz	05320	939384	QS NARC
2. POM Derek Sambolin	06906	943771	QS NARC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Ramiro Ruiz	Abuse: Sgt. Ramiro Ruiz stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Derek Sambolin	Abuse: PO Derek Sambolin stopped the car in which § 87(2)(b) was an occupant.	
C.POM Derek Sambolin	Abuse: PO Derek Sambolin frisked § 87(2)(b)	
D.POM Derek Sambolin	Abuse: PO Derek Sambolin searched § 87(2)(b)	
E.POM Derek Sambolin	Abuse: PO Derek Sambolin searched the car in which § 87(2)(b) was an occupant.	
F.SGT Ramiro Ruiz	Abuse: Sgt. Ramiro Ruiz threatened to issue summons to § 87(2)(b)	
G.SGT Ramiro Ruiz	Abuse: Sgt. Ramiro Ruiz attempted to interfere with § 87(2)(b)'s ability to record a police incident.	

### Case Summary

On September 16, 2015, § 87(2)(b) filed this complaint via phone with the CCRB.

On September 16, 2015, at approximately 9:05 a.m., at 87-15 Beach Channel Drive in Queens, § 87(2)(b) was driving when he was stopped by Sgt. Ramiro Ruiz and PO Derek Sambolin from Queens South Narcotics (**Allegations A and B**). PO Sambolin frisked § 87(2)(b) allegedly searched him, and searched his vehicle (**Allegations C, D, and E**). During the stop, Sgt. Ruiz allegedly threatened to issue § 87(2)(b) summonses “for everything” (**Allegation F**). § 87(2)(b) allegedly took out his phone to record the incident and Sgt. Ruiz allegedly told him to put his phone away (**Allegation G**).

There was no video for this incident.

### Mediation, Civil and Criminal Histories

§ 87(2)(b) was offered mediation but rejected it § 87(2)(b)

On December 14, 2015, notice of claim inquiry was submitted and will be added to the case file upon receipt. § 87(2)(b), § 87(2)(c)

### Civilian and Officer CCRB Histories

- § 87(2)(b) previously filed six complaints in the past three years. § 87(2)(g)  
§ 87(2)(g)  
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§ 87(2)(g)
- PO Sambolin has been a member of the NYPD for eight years, has had 34 previous CCRB allegations involving 16 cases, with two substantiated allegations. In Case 200801475, allegations of a vehicle stop and discourteous action were substantiated with charges. PO Sambolin pled guilty and forfeited 25 vacation days. § 87(2)(g)  
§ 87(2)(g) PO Sambolin has had two previous allegations pleaded against him for each respective allegation. In each category, one of these allegations has been unsubstantiated and one has been exonerated.
- Sgt. Ruiz had been a member of the NYPD for 10 years and has had 23 previous CCRB allegations involving 11 cases, with one substantiated allegation of Abuse – Other, for which he received instructions. Case 201505505, which is still open, currently has three allegations pleaded against Sgt. Ruiz, including a vehicle stop allegation.

### Potential Issues

During field work conducted at the incident location, it was determined that the surveillance cameras at the mechanic’s shop did not capture the incident. Also during field work, the owner of the shop gave a brief statement, but did not address the allegations in any detail, before walking away from the field team investigators. The owner suggested he could be reached via phone at the shop and said he always returns phone calls. Subsequent calls placed to him at the shop were never returned. § 87(2)(g)

## **Findings and Recommendations**

### **Explanation of Subject Officer Identification**

§ 87(2)(b) said the same officer threatened to issue him summonses and told him repeatedly to put his phone away when he was trying to record. Both Sgt. Ruiz and PO Sambolin denied making or hearing these statements. § 87(2)(g)

§ 87(2)(b) also said the subject was taller than his partner. Sgt. Ruiz, a § 87(2)(b) -old white male, is taller than PO Sambolin, a § 87(2)(b) -old Hispanic male. § 87(2)(g)

**Allegation A – Abuse of Authority: Sgt. Ramiro Ruiz stopped the car in which § 87(2)(b) was an occupant.**

**Allegation B – Abuse of Authority: PO Derek Sambolin stopped the car in which § 87(2)(b) was an occupant.**

According to § 87(2)(b) he was driving to § 87(2)(b) and was at the intersection of Beach 84<sup>th</sup> Street and Rockaway Freeway. While approaching the intersection, § 87(2)(b) noticed a black Mustang parked on the side of the road with its brake lights on. § 87(2)(b) believed the vehicle to be disabled and went around the Mustang and approached the intersection. § 87(2)(b) did not know the individuals in the Mustang and did not interact with them in any way. Upon reaching the intersection, the light was red. § 87(2)(b) waited for the light to change and then made a right turn. After turning, § 87(2)(b) observed a Dodge, either a Journey or a Caravan, begin following him. The Dodge followed him for approximately four to five minutes, all the way to the auto shop. To § 87(2)(b)'s knowledge, with the exception of his air conditioning, which he was going to the auto shop to have fixed, his car was in good working order, he did not commit any traffic violations, and he was going the speed limit. After parking in the auto garage, the Dodge pulled up behind § 87(2)(b)'s car and parked. The Dodge did not put on any lights or sirens. § 87(2)(b) started to get out of his car and two officers, identified through investigation as PO Sambolin and Sgt. Ruiz, got out of the Dodge. The Dodge did not have any lights or sirens engaged. PO Sambolin told § 87(2)(b) "Don't get out of your car." § 87(2)(b) got back into his car, leaving the already open driver's door halfway open. PO Sambolin then asked for § 87(2)(b)'s license. During the course of the stop, § 87(2)(b) alleged that the officers provided him with four different reasons for the stop: that his brake light was out; that he had been "driving crazy;" that he had been seen pulling up by the Mustang, which contained an individual who is a known drug dealer; and that he had not used his turn signal, which § 87(2)(b) denied.

PO Sambolin stated that he was driving when he observed the car in front him stopped at an intersection, and blocking traffic. The vehicle, later identified as § 87(2)(b)'s car, had been stopped at a red light, but when the light turned green, § 87(2)(b) had remained stopped and was talking to a driver in the vehicle next to him. This vehicle was not obstructing traffic because it was pulled over on the side of the road. PO Sambolin watched § 87(2)(b) and the other individual speak for almost a minute and did not see them interact physically or exchange anything during this time. § 87(2)(b) then drove off, turning left without signaling. PO Sambolin followed him, he did not remember how long, and § 87(2)(b) turned into a mechanic's shop. During his CCRB interview, PO Sambolin first stated that directly after this, he decided to pull § 87(2)(b)'s vehicle over and placed his police lights on, but later stated that the police lights had been on at the point in which § 87(2)(b) turned into the mechanic shop. PO Sambolin did not know if § 87(2)(b) turned into the mechanic's shop because he was going there or because of his

police presence. PO Sambolin pulled up to § 87(2)(b)'s car and at this point was stopping him for failure to signal. He did not issue any summonses but stated that he warned and admonished § 87(2)(b) during the stop (BR 06).

Sgt. Ruiz stated that he was approximately 30-40 feet away from § 87(2)(b)'s car, he could not recall how many cars back, when he observed § 87(2)(b)'s car stopped at the intersection of Beach 84<sup>th</sup> Street and Beach Channel Drive. § 87(2)(b)'s car was stopped before the light, Sgt. Ruiz did not recall what color the light was, and he was speaking to another motorist in the vehicle next to him and blocking vehicular traffic. Both of the vehicles were stopped. Sgt. Ruiz explained that the lane is not marked and the two vehicles fit inside it. He estimated § 87(2)(b) and the other motorist were speaking for a few seconds. § 87(2)(b) then approached Beach Channel Drive and made a left turn without signaling, Sgt. Ruiz was not sure where the other car went. § 87(2)(b) then turned onto Beach 87<sup>th</sup> Street and made another left turn without signaling into an auto garage. PO Sambolin made the decision to pull over § 87(2)(b) and turned the police lights on as § 87(2)(b) was in the process of turning into the auto garage. PO Sambolin pulled § 87(2)(b) over for blocking vehicular traffic and for turning without signaling (BR 07).

Officers can stop motorists observed committing traffic violations as a pretext to investigate more serious crimes. See Whren v. United States, 517 U.S. 806 (1996) (BR 11); People v. Robinson, 97 N.Y.2d 341 (2001) (BR 12).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

**Allegation C – Abuse of Authority: PO Derek Sambolin frisked § 87(2)(b)**

**Allegation D – Abuse of Authority: PO Derek Sambolin searched § 87(2)(b)**

It is undisputed that PO Sambolin frisked § 87(2)(b) § 87(2)(g)  
[REDACTED]

According to § 87(2)(b) after PO Sambolin instructed him to remain in his car and asked for his license, § 87(2)(b) provided his license. PO Sambolin then asked for his “paperwork” and § 87(2)(b) provided his registration and insurance. PO Sambolin then asked § 87(2)(b) a few questions and instructed him to exit his vehicle. § 87(2)(b) complied and stood in front of the driver’s side door. PO Sambolin frisked § 87(2)(b) patting down his upper chest and legs and going between his legs. Allegedly, PO Sambolin also went into § 87(2)(b)'s right and left pants pockets.

According to PO Sambolin, while § 87(2)(b) had been pulling into the mechanic's shop, he observed § 87(2)(b) bend down in the vehicle. PO Sambolin described § 87(2)(b) as bending both forward and to the side. As the officers exited their vehicle, § 87(2)(b) exited his at the same time. PO Sambolin believed § 87(2)(b)'s hasty exit from his vehicle was a sign that § 87(2)(b) was going to run or had a weapon on him. § 87(2)(b) was in the process of exiting his car, in the open door frame, and PO Sambolin issued him commands to stop exiting the car. § 87(2)(b) did not comply and fully exited the car, standing in front of the open driver's door. PO Sambolin approached § 87(2)(b) and asked for his license and registration and for him to get back in his vehicle. § 87(2)(b) was not compliant with any of these instructions, so PO Sambolin asked his license and registration a couple times. PO Sambolin estimated this exchange lasted 30 seconds. During this time, § 87(2)(b) was argumentative and irate, his voice was raised and PO Sambolin described him as "fidgeting." PO Sambolin was uncomfortable to due to having observed § 87(2)(b) bending down, exiting his vehicle, and fidgeting, so he decided to frisk § 87(2)(b). PO Sambolin originally stated that he informed § 87(2)(b) if he did not step back from his vehicle, he would be patted down. Later, PO Sambolin stated he did not recall if he informed § 87(2)(b) of this. PO Sambolin then patted down § 87(2)(b) on his chest, arms, legs, between his legs, and his waistband. PO Sambolin did not feel any objects that made him further suspicious and denied going into any of § 87(2)(b)'s pockets or inside any of his clothes.

Sgt. Ruiz stated that right after § 87(2)(b) parked his car in the mechanic's shop, he observed § 87(2)(b) bend over and reach down. Sgt. Ruiz observed § 87(2)(b) bend down once and bend down forwards. As the officers exited their vehicle, § 87(2)(b) exited his. The officers both issued § 87(2)(b) multiple instructions to stay in his car. § 87(2)(b) refused and asked the officers questions about why they had stopped him. Sgt. Ruiz did not recall if he asked any other questions. Sgt. Ruiz explained that after § 87(2)(b) had exited his vehicle, he was very agitated, verbally aggressive, and was moving around a lot, fidgeting and not staying in the same position. § 87(2)(b) was not pacing. Sgt. Ruiz described him as "moving while in the same spot," and was moving his arms a lot while he was talking. PO Sambolin explained to § 87(2)(b) that he was moving around a lot and was being very irate, so he was going to frisk him for his safety. Sgt. Ruiz stated that although he was not sure of PO Sambolin's reasons for frisking § 87(2)(b) the reasons that raised Sgt. Ruiz's level of suspicion were § 87(2)(b)'s tone and his moving around. PO Sambolin frisked § 87(2)(b) patting down his waistband and torso. Sgt. Ruiz did not observe any bulges on § 87(2)(b)'s body and PO Sambolin did not find anything during the frisk that raised his level of suspicion further. Sgt. Ruiz never saw PO Sambolin go into any of § 87(2)(b)'s pockets.

Officers can frisk a person if they reasonably suspect that the individual is in possession of a weapon. People v. DeBour, 40 N.Y.2d 210 (1976) (BR 08). Additionally, officers may be warranted, upon observing a furtive movement during a traffic stop that gives rise to a reasonable suspicion that the individual is concealing a weapon, in questioning that that person about the possession of a weapon and frisking him. People v. Crespo, 292 A.D.2d 177 (2002) (BR 09).

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**Allegation E – Abuse of Authority: PO Derek Sambolin searched the car in which**

§ 87(2)(b) **was an occupant.**

It is undisputed that PO Sambolin searched § 87(2)(b)'s vehicle.

According to § 87(2)(b) after he had been frisked and searched, PO Sambolin instructed him to move closer to the rear of his car. PO Sambolin then said, "Since you're already outside your car, I'm going to look inside your car." PO Sambolin entered § 87(2)(b)'s car through the open driver's door and looked in the front area of the car and opened the glove compartment. § 87(2)(b) keeps a bag under the driver's seat of the car, which PO Sambolin looked at. He then looked inside the center armrest, the ashtray and looked towards the back seats.

PO Sambolin stated that due to the same factors for which he had frisked § 87(2)(b) he also suspected § 87(2)(b) of having weapons or contraband in his vehicle. PO Sambolin entered the vehicle through the open driver's side door and looked underneath the seat of the car. He did not recall looking in any other areas of the car. § 87(2)(b) was standing outside of the car during this time, next to the driver's side door.

Sgt. Ruiz did not recall if PO Sambolin informed § 87(2)(b) or himself before he did it. According to Sgt. Ruiz, PO Sambolin entered § 87(2)(b)'s car through the open driver's side door and searched under the front passenger and driver's seat and the floor area. PO Sambolin did not look inside the glove compartment or middle armrest. Sgt. Ruiz stated that PO Sambolin searched the car due to the observation of § 87(2)(b) bending over, and this was the only reason. During the search, § 87(2)(b) was standing with Sgt. Ruiz by the rear of the vehicle.

Absent probable cause, it is unlawful for an officer to search the interior of a stopped car after an occupant has been removed and frisked without incident since any immediate threat to the officers' safety has consequently been eliminated. However, an officer can search a vehicle if there is a substantial likelihood of a weapon being present in the vehicle which poses an "actual and specific danger" to the officer's safety. People v. Mundo, 99 N.Y.2d 55 (2002) (BR 11) A limited search may be justified by when there are both 1) movements within a car suggesting a person was reaching for something that might be a weapon and 2) some other suggestive factors. People v. Newman, 96 A.D.3d 34 (2012) (BR10) In Newman, a limited search was justified when officers observed a vehicle occupant attempting to deceive them by feigning sleep and then suspiciously reaching under his seat.

As noted above, PO Sambolin said his suspicions were based on the following: 1) § 87(2)(b)'s movements in the car prior to the officers' approach, 2) his exiting of the vehicle, 3) his refusal to comply with the officers' instructions, and 4) his fidgeting outside the vehicle. Neither PO Sambolin nor Sgt. Ruiz provided any additional factors for the search. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Abuse of Authority: Sgt. Ramiro Ruiz threatened to issue summons to**

§ 87(2)(b)

**Allegation G – Abuse of Authority: Sgt. Ramiro Ruiz attempted to interfere with**

§ 87(2)(b)

**§ 87(2)(b)'s ability to record a police incident.**

§ 87(2)(b) alleged that during the stop, Sgt. Ruiz asked him if he wanted him to “call a blue and white over” and give him “tickets for everything” and later told § 87(2)(b) that he could get officers to write him summonses. At the end of the incident, § 87(2)(b) stated that he took out his phone and started trying to record the incident. Sgt. Ruiz told him repeatedly to put the phone away.

Sgt. Ruiz denied telling § 87(2)(b) he could “call a blue and white over and give him tickets for everything” or telling him he could “get officers to write him tickets.” He was not aware of § 87(2)(b) having his phone out during the incident and never told § 87(2)(b) to put his phone away or that he could not record.

PO Sambolin did not recall any discussion about tickets or recall Sgt. Ruiz saying he could “call a blue and white over and give § 87(2)(b) tickets for everything.” PO Sambolin did not recall § 87(2)(b) having his phone out during the incident and never told him he could not record or to put his phone away and never heard Sgt. Ruiz say this.

§ 87(2)(g)

Squad: 14

Investigator:	_____	_____	_____
	Signature	Print	Date

Pod Leader:	_____	_____	_____
	Title/Signature	Print	Date

Attorney:	_____	_____	_____
	Title/Signature	Print	Date